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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,266	06/23/2003	Masao Moriguchi	SLA0770	1706

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SHARP LABORATORIES OF AMERICA, INC.
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EXAMINER

PADGETT, MARIANNE L

ART UNIT	PAPER NUMBER
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1762

MAIL DATE	DELIVERY MODE
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04/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/602,266

Applicant(s)

MORIGUCHI ET AL.

Examiner

Marianne L. Padgett

Art Unit

1762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-21,23 and 25-44.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

**MARIANNE PADGETT
PRIMARY EXAMINER**

Continuation of 3. NOTE:

(1) Applicants' proposed amendment to the specification appears to add considerable New Matter, noting that applicants discussion of the amendment on page 18 of the 3/29/07 response provided no support for the substantial additions to the specification. It is further noted that in the office action of 3/1/2007, in the discussion of the previous amendment to page 6 concerning figure 4, the examiner already noted that insertion of language consistent with applicants' previous explanation of the figure 4 would appear to include new matter, thus in spite adding language analogous thereto, applicants have provided no showing of support, thus raising the issue of addition of New Matter to the specification.

(2) Additionally, the disclosure added to the page 6 description of figure 4 also appears to contradict the disclosure already present there, as the original paragraph explicitly says "For each step, the substrate (or beamlets) is rotated 90° with respect to the direction of lateral growth of the previous step", however in the description to be added by the 3/29/07 proposed amendment, has first step & second step both in the same direction contradicting the preceding disclosure, and only rotates when starting another set of steps, thus the proposed amendment is inconsistent with the disclosure already present creating issues of both clarity and New Matter.

(3) The amendments to the claims, particular to claims 1 & 2, while clarifying the intent & meaning, create new issues by explicitly describing the sequence of intended steps and their configurations, which were not previously necessitated, but also raised the issue of potential New Matter, because again applicants did not provide citations of support from the original specification for these changes (note if applicants' original specification did not provide clear support for what applicants have indicated was intended, they might consider adding the information & clarifications via a CIP).

Continuation of 5. Applicant's reply has overcome the following rejection(s):

Applicants are correct that USPN 6,818,484 was indeed listed as the fifth item on the 11/24/2006 TD hence the obviousness double patenting rejection in section 6 of the 3/1/2007 action had been appropriately overcome and should not have been included in the rejection.

Applicant's amendments to the claims, particularly claims 1 and 2, plus other claims that have been explicitly amended appear to significantly clarify the claimed process, removing the majority of problems as set forth in the 112, second paragraph rejection, however the changes need to be reviewed for support in the original specification.

Continuation of 11. does NOT place the application in condition for allowance because:

New issues remain to be considered, with the probable new matter being a major deterrent to allowance. With respect to Sposili et al. (6,577,380 B1) applicants' proposed amendment, which clarifies the claimed irradiation sequence & configuration is clearly more specific than this references' generic teachings concerning SLS processes, masks, rotation & translation of substrate or mask, etc., therefore, absent further teachings (for which the prior art needs to be reviewed), it would appear that the proposed amendments would overcome Sposili et al. (380).